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827.2004.0429.026

30 April 2004

Mr. Joseph Solomey  
Assistant Chief Counsel  
U.S. Department of Transportation  
Research and Special Programs Administration  
400 Seventh Street, S.W., Room 8407  
Washington, DC 20590

RECEIVED  
U.S. DOT/RSIPA  
OFFICE OF CHIEF COUNSEL  
2004 MAY - 5

Dear Mr. Solomey:

The Transportation Security Administration (TSA) is requesting a written interpretation on the applicability of the Federal hazardous materials transportation law, 49 U.S.C. 5101 et seq. (formerly the Hazardous Materials Transportation Act [HMTA], 49 App. U.S.C. 1801 et seq.) and the Hazardous Materials Regulations (HMR), 49 CFR Parts 171-180, issued under the HMTA, to hazardous materials transportation by TSA.

TSA operates at more than 460 airports and conducts airport security screening of carry-on baggage and passengers intending to board flights departing the airport. Items that may not be taken on board passenger airplanes from unchecked baggage due to security reasons and U.S. Department of Transportation (DOT) restrictions are voluntarily abandoned by passengers at TSA-monitored airport security checkpoints. The voluntarily abandoned property (VAP) collected from passengers at checkpoints may include hazardous materials. The majority of items include lighters and lighter fluid, matches, aerosols, fireworks, hunting ammunition, camping flares, mace/pepper spray, small batteries (e.g., alkaline or lithium), and cleaning chemicals.

TSA believes, and is requesting your concurrence, that the hazardous materials collected by TSA at airport locations and transported on public roads by TSA personnel for a noncommercial governmental purpose are not subject to the HMTA requirements. Transportation of hazardous materials on public roads by TSA personnel would include transporting the collected hazardous materials from a spoke airport to its' associated hub airport for disposal or transfer to a State Agency for Surplus Property for reuse, or moving hazardous materials from an onsite airport property to an offsite TSA office or TSA-controlled storage location.

Science Applications International Corporation (SAIC) is contractually supporting TSA's VAP disposal program and looks forward to receiving your written clarifying response at the address below. Please do not hesitate to contact me at (703) 318-4622 if you have any additional questions on this matter, or the TSA Contracting Officer's Technical Representative, Ms. Cynthia Bridges at (571) 227-1064. Thank you in advance for your assistance with this matter.

Sincerely,  
SCIENCE APPLICATIONS INTERNATIONAL CORPORATION

  
John R. Carter, III  
Program Manager

cc: C. Bridges (TSA COTR); B. Hays (TSA HAZMAT Program Manager)